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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/803,404	03/18/2004	Darrel J. Svendsen	14124-1	5565
37414	7590	06/23/2005	EXAMINER	
CNH AMERICA LLC INTELLECTUAL PROPERTY LAW DEPARTMENT PO BOX 1895, MS 641 NEW HOLLAND, PA 17557			LEE, KEVIN L	
			ART UNIT	PAPER NUMBER
			3753	

DATE MAILED: 06/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/803,404	SVENDSEN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	KEVIN L. LEE	3753	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 07 April 2005.

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-10 and 19-28 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-10 and 19-28 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Arguments***

Applicant's arguments filed in the amendment of April 7, 2005 with respect to the rejection(s) of claim(s) 1-4 under 102 as being anticipated by the patent to Bunnell et al patent (U.S. Patent No. 6,789,568) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of the patent to Lemmon (U.S. Patent No. 4,664,144).

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Lemmon. The patent to Lemmon discloses a fuel tank system for a work vehicle, the system comprising a first fuel tank (12) having an outlet disposed on a lower portion, a second fuel tank (10) having an outlet disposed on a lower portion, a cross feed line (16) coupled between the outlets of the first and second tanks and a check valve (38) disposed in the feed line (16) to block fuel from flowing from the second tank (10) to the first tank (12), column 3, lines 12-33.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lemmon. It is not known whether the feed line (16) is flexible or rigid. Forming the feed line of a flexible material would have been an obvious design choice to allow the feed line to readily fit about the outlet connections of the fuel tanks as well as allow the tanks to be adjusted in position in the vehicle housing.

Claims 2-7, 19-23 and 25-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemmon in view of Herlihy (U.S. Patent No. 5,285,816). The fuel system of Lemmon lacks having a check valve formed as a flapper valve member. The patent to Herlihy teaches the above exception in providing a flapper valve member comprising a polymeric annulus (11), a generally planar valve element (30) fixed to the annulus and a stiffener sheet (36) fixed to a lower portion of the circular polymeric sheet (30). Herlihy teaches that the valve is used in pipes to prevent reverse fluid flow, col. 1, lines 5-10. In view of the teaching of Herlihy, it would have been obvious to one of ordinary skill in the art to substitute the flapper valve member for the ball check valve as an alternate and equivalent means of preventing reverse fluid flow in the feed line.

Claims 2-10, 19-23 and 25-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemmon in view of Kramer (U.S. Patent No. 4,702,274). The fuel system of Lemmon lacks having a check valve formed as a flapper valve member. The patent to Kramer teaches the above exception in providing a flapper valve member comprising a polymeric annulus (28), a generally planar valve element (55) fixed to the annulus and a stiffener sheet (58, 59) fixed to a lower portion of the valve element. Herlihy teaches that the flapper valve is used in pipes to prevent reverse fluid flow into a tank, col. 1, lines 12-18. In view of the teaching of Kramer, it would have been obvious to one of ordinary skill in the art to substitute the flapper valve member for the ball check valve as an alternate and equivalent means of preventing reverse fluid flow in the feed line.

***Allowable Subject Matter***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KEVIN L. LEE whose telephone number is (571) 272-4915. The examiner can normally be reached on MONDAY-THURSDAY.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, GENE MANCENE can be reached on (571) 272-4930. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JUNE 16, 2005

*Kevin Lee*  
Kevin Lee  
Primary Examiner